

Minutes of the Regular Meeting held January 3, 2011 at 7:00 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Rogers and Council Members

Jim McDonald, Vice Mayor
Jim Buster
Stephanie Karlin
Frank Scott
Charles Vierhout
Ken Weise

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Dan Davis, Economic Development Director
Ken Galica, Development Services Department
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk

1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2 UNSCHEDULED PUBLIC APPEARANCES

3 CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. APPROVAL OF MINUTES

1. Work Session of December 13, 2010
2. Regular Meeting of December 13, 2010

b. RESCHEDULING OF CITY COUNCIL MEETING

A request to reschedule the City Council meeting of January 17, 2011 in observance of Martin Luther King Jr. Day and to accommodate scheduling conflicts.

c. MEMORANDUM OF AGREEMENT - CHILDHELP INC.

A request to approve a Memorandum of Agreement with Childhelp Inc. to assign two full-time Masters Level therapists to the Southwest Family Advocacy Center and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

d. PROFESSIONAL SERVICES AGREEMENT - BROWN AND CALDWELL FOR ARC FLASH ANALYSIS

A request to approve a Professional Services Agreement with Brown & Caldwell to perform ARC Flash Analysis for an amount not to exceed \$141,086.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

e. SECOND AMENDMENT TO SOFTWARE SUPPORT AGREEMENT - INFOR GLOBAL SOLUTIONS (MICHIGAN), INC.

A request to approve the second amendment to software support agreement with Infor Global Solutions (Michigan), Inc., for Enterprise Asset Management annual technical

support services not to exceed \$40,317.92, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

f. RESOLUTION 2949-111 - SUPPORTING A GRANT APPLICATION TO THE ADOH FOR THE OWNER-OCCUPIED HOME REHABILITATION PROGRAM

A resolution authorizing the submission of a grant application to the Arizona Department of Housing for additional funding to the existing City of Avondale Owner Occupied Home Rehabilitation Program and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

g. RESOLUTION 2948-111 - INTERGOVERNMENTAL AGREEMENT WITH THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY FOR COST SHARING DRAINAGE IMPROVEMENTS ON 6TH STREET AND WESTERN AVENUE

A resolution authorizing an Intergovernmental Agreement with the Flood Control District of Maricopa County allowing payment of \$187,500 from FCDMC to the City of Avondale for their share of the cost to construct drainage improvements along Western Avenue from 6th Street to Dysart Road, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

h. RESOLUTION 2950-111 - AUTHORIZING SUBMITTAL OF AN APPLICATION FOR LTAF II GRANT FUNDING

A resolution authorizing the City to submit an application to receive remaining FY2010 Local Transportation Assistance Funds (LTAF II) in the amount of \$61,744.34 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

i. RESOLUTION 2947-111 AND ORDINANCE 1436-111 - AMENDMENT TO THE MUNICIPAL CODE CHAPTER 20, ARTICLE III - ALARM SYSTEMS

A resolution declaring as a public record the "City of Avondale Alarm System Ordinance, Amended and Restated January 3, 2011" and an Ordinance adopting the same relating to the addition of alarm registration and alarm renewal fees.

j. ORDINANCE 1440-111 - AUTHORIZING THE DEDICATION OF A USA EASEMENT FOR THE AVONDALE BOULEVARD AND INTERSTATE 10 TRAFFIC INTERCHANGE IMPROVEMENT PROJECT

An ordinance authorizing the dedication of an easement to the United States for the Avondale Boulevard and I-10 Traffic Interchange Improvement Project and authorize the Mayor or City Manager, and City Clerk to execute the necessary documents.

k. ORDINANCES 1437-111 AND 1438-111 - DEDICATION OF EASEMENTS TO SRP FOR THE AVONDALE BOULEVARD AND I-10 TRAFFIC INTERCHANGE IMPROVEMENT PROJECT

Two ordinances dedicating power distribution easements to Salt River Project for the Avondale Boulevard and I-10 Traffic Interchange Improvement Project and authorize the Mayor or City Manager, and City Clerk to execute the necessary documents.

Vice Mayor McDonald moved to approve the consent agenda as presented including Resolutions 2947-111, 2948-111, 2949-111, 2950-111, Ordinances 1436-111, 1437-111, 1438-111 and 1440-111. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Aye
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried unanimously.

4 LEASE AGREEMENT - GROUND CONTROL COFFEE AND WINE BAR, LLC

A request to approve a Lease Agreement with Ground Control Coffee and Wine Bar, LLC and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

Charlie McClendon, City Manager, indicated that John Ruggieri, City Center Development Specialist would make a presentation regarding items 4, 5 and 6 related to the retail development at the City Center.

John Ruggieri, City Center Development Specialist, reviewed the particulars of items 4, 5 and 6. Regarding the O'Brien property, he indicated that the city is proposing to purchase 15.36 acres for the amount of \$3.1 million which includes the rights of way. Mr. O'Brien would have the option to reacquire approximately 7.78 acres at the front and rear blocks of the property resulting in the city retaining the rights of way and the middle block. In addition, Mr. O'Brien has agreed to lease and operate a Carlos O'Brien Restaurant at the north end cap of the current retail development and subsequently develop a second restaurant when and if the retail development in Block B is developed by the City. Mr. Ruggieri reviewed the terms of the lease agreement with Mr. O'Brien which will result in a 5,609 sf full service restaurant with an additional 1,178 sf outdoor patio area. The initial term of the agreement will be seven year with two five year options. The agreement calls for a \$102,000 base payment to the City and a 7% of the adjusted gross sales over \$2 million. He commented that \$2 million is a realistic amount for this type and size of restaurant. In addition, the City will provide \$600,000 for dining, public area improvements and kitchen equipment. Mr. O'Brien will provide a minimum of \$500,000 for FF&E. The design fees and any additional tenant improvements will be Mr. O'Brien's responsibility.

Regarding the Ground Control lease agreement, Mr. Ruggieri commented that Ground Control and Wine Bar will occupy the middle suite in the south portion of the current retail development consisting of 2,500 sf for a full service coffee, wine bar and bistro and 525 of outdoor space. The term of the lease will be initially for seven years with an option for an additional seven years. Mr. Ruggieri explained that the tenant will pay the City an annual base amount of \$59,940 which be incrementally increased in years 2-7. Avondale will provide \$270,000 for FF&E and Ground Control will provide a minimum of \$100,000 for kitchen and restaurant equipment and improvements. Ground Control will be responsible for the design and additional tenant improvement in excess of \$100,000. Mr. Ruggieri

concluded by saying that staff is recommending council approval of the two lease agreements and the purchase and sale agreement.

Council Member Scott commended Mr. Ruggieri and Mr. Davis for their work on the leases and indicated he expects this to be a win-win situation for all involved.

In response to a question from Council Member Weise, Mr. Ruggieri indicated that the lease rates are competitive and standard for the industry under the current market conditions. Council Member Weise indicated that the projected revenues for Carlos O'Brien's restaurant are conservative and should be easily exceeded. Council Member Weise added that Ground Control has a good establishment in Goodyear and looks forward to having them as a partner in Avondale.

Council Member Buster asked why was the decision made to structure the lease agreements differently with one based on percentage of sales and the other on an incremental formula. Mr. Ruggieri responded that the lease structures were developed in the negotiation process and designed to meet the needs of both the tenant and the City based on the location and type of establishment.

Vice Mayor McDonald commented that the sports center has seen more activity that had been expected and expects that expectations will be exceeded for these two establishments.

Mary Rose Evans commented that she was concerned regarding the cost to the city but trusts that the city has obtained an appraisal on the property and is paying a fair market value for it. She indicated that it is her understanding that the Council was very influential in the design of the sports center and suggested the establishment of a design board made up of design professionals and residents to assist with the design of the remainder of the City Center.

Mayor Rogers asked Mr. Ruggieri to provide Ms Evans with the design of the retail portion of the City Center. Vice Mayor McDonald commented that a rendition of the finished project is in the Rave Magazine.

Vice Mayor McDonald moved to approve the Lease Agreement with Ground Control Coffee and Wine Bar, LLC; Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Aye
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried unanimously.

5 ORDINANCE 1441-111 - AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE

An ordinance authorizing the purchase of approximately 15.36 acres of real property generally located south of City Center Drive, north of Van Buren Street and east of Avondale Boulevard from Carlos O'Brien's Scottsdale, LLC in the amount of \$3,100,000, authorize the use of general fund cash balance, an interfund transfer of appropriation and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

Vice Mayor McDonald moved to adopt Ordinance 1441-111 authorizing the purchase of approximately 15.36 acres of real property generally located south of City Center Drive, north of Van Buren Street and east of Avondale Boulevard from Carlos O'Brien's Scottsdale, LLC in the amount of \$3,100,000, authorize the use of general fund cash balance, an interfund transfer of appropriation and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Aye
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried unanimously.

6 LEASE AGREEMENT - CARLOS O'BRIEN'S SCOTTSDALE, LLC

A request to approve a Lease Agreement with Carlos O'Brien's Scottsdale, LLC and authorize the Mayor or City Manager and City Clerk to execute the necessary documents and authorize the use and transfer of contingency funds.

Vice Mayor McDonald moved to approve the Lease Agreement with Carlos O'Brien's Scottsdale, LLC; Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Aye
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried unanimously.

7 PUBLIC HEARING AND ORDINANCE 1439-111 – HOLY CROSS SPECIAL USE OVERLAY REZONING (PL-10-0063)

A public hearing and an ordinance establishing the Special Use Overlay Zoning District to allow for the expansion of the Holy Cross Cemetery located at the southwest corner of 99th Avenue and Thomas Road.

Charlie McClendon introduced Ken Galica from the Development Services Department to present this item.

Ken Galica reviewed the details as more specifically described in the council report.

Council Member Weise commented it is important to protect Holy Cross Cemetery and allow it to grow.

Council Member Karlin indicated that the site is almost a historical site. She reference previous controversy regarding removal of the pecan trees and asked for more details regarding improvements in the perimeter of the property. Mr. Galica responded that the narrative allows for continued use of the current landscape themes. He further explained that exact location of the perimeter wall and the landscape plan will be reviewed during the site plan approval.

Mayor Rogers opened the public hearing.

Mr. Ed Bull spoke on behalf of Holy Cross Cemetery and requested approval of the recommendation by the Planning Commission and staff.

Mayor Lopez Rogers closed the public hearing.

Vice Mayor McDonald moved to adopt Ordinance 1439-111 establishing the Special Use Overlay Zoning District to allow for the expansion of the Holy Cross Cemetery. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Aye
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried unanimously.

8 EXECUTIVE SESSION

- a. An executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for discussion or consultation with the City's Attorney in order to consider its position and instruct the City Attorney regarding the Council's position regarding (a) the *Hurst v. City of Avondale* matter and (b) a potential Economic Development Agreement.

Council Member Weise moved to adjourn to executive session; Vice Mayor McDonald seconded the motion

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Aye
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried unanimously.

9 ADJOURNMENT

There being no further business before the Council, Council Member Buster moved to adjourn the regular meeting. Council Member Vierhout seconded the motion. Motion carried unanimously.

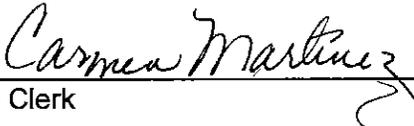
Meeting adjourned at 8:38 p.m.


Mayor Rogers


Carmen Martinez, CMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session of the Council of the City of Avondale held on the 3rd day of January, 2011. I further certify that the meeting was duly called and held and that the quorum was present.


Carmen Martinez
City Clerk